

JAN 22 2016

A BILL FOR AN ACT

RELATING TO FINANCIAL INSTITUTIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the fees financial
2 institutions are required to pay under chapter 412, Hawaii
3 Revised Statutes, need clarification based on several
4 inconsistencies within the statute. Inconsistent and ambiguous
5 fees creates confusion and time consuming inquiries for the
6 department of commerce and consumer affairs' division of
7 financial institutions. The purpose of this Act is to create a
8 consistent and clear fee process for financial institutions.

9 SECTION 2. Section 412:2-105.2, Hawaii Revised Statutes,
10 is amended by amending subsections (b) to (f) to read as
11 follows:

12 "(b) The assessments shall be paid semiannually on
13 [~~February 15~~] March 1 and [~~August 15~~] September 1 of each year
14 based on the institution's total assets reported as of the
15 previous December 31 and June 30, respectively [~~; provided that~~
16 ~~the payments of the assessment shall commence on February 15,~~
17 2014].



1 (c) In addition to the assessments established in
2 subsection (a), a financial institution or financial institution
3 applicant shall pay fees as follows:

4 (1) A nonrefundable fee of \$10,000 for an application for
5 preliminary approval by the commissioner for the
6 organization of a Hawaii financial institution
7 pursuant to section 412:3-201, 412:3-202, 412:3-206,
8 or 412:3-301 [~~, or 412:5-205~~];

9 (2) A nonrefundable fee of \$9,000 for an application for
10 preliminary approval by the commissioner for the
11 organization of a Hawaii financial institution
12 pursuant to section 412:5-402;

13 (3) A nonrefundable fee of \$2,500 for a final application
14 for a charter or license to engage in the business of
15 a Hawaii financial institution pursuant to section
16 412:3-212;

17 [~~(4) A nonrefundable fee of \$2,500 for a final application~~
18 ~~for a charter or license to engage in the business of~~
19 ~~a savings bank pursuant to section 412:6-101,~~



1 ~~(5) A nonrefundable fee of \$2,500 for a final application~~
2 ~~for a charter or license to engage in the business of~~
3 ~~a trust company pursuant to section 412:8-102;~~

4 ~~(6)]~~ (4) A nonrefundable fee of \$10,000 for an application
5 for a merger or consolidation or acquisition of
6 control involving a Hawaii financial institution;

7 ~~[(7) A nonrefundable fee of \$10,000 for an application for~~
8 ~~the acquisition of control of a Hawaii financial~~
9 ~~institution;~~

10 ~~(8)]~~ (5) A nonrefundable fee of \$2,500 for an application
11 for the conversion of a federal financial institution
12 to a Hawaii financial institution or the conversion of
13 a Hawaii financial institution to another Hawaii
14 financial institution charter;

15 ~~[(9)]~~ (6) A nonrefundable fee of \$5,000 for an application
16 of a bank to conduct a trust business through a
17 subsidiary, division, or department of the bank
18 pursuant to [section] 412:5-205;

19 ~~[(10)]~~ (7) A nonrefundable fee of \$5,000 for an application
20 of a bank to conduct insurance activities pursuant to
21 section 412:5-205.5;



- 1 ~~[(11)]~~ (8) A nonrefundable fee of \$5,000 for an application
2 of a bank to engage in securities activities pursuant
3 to section 412:5-205.7;
- 4 ~~[(12)]~~ (9) A nonrefundable fee of \$2,000 for an application
5 for a bank ~~[or]~~, savings bank, or depository financial
6 services loan company to comply with lending limits
7 applicable to federal financial institutions pursuant
8 to section 412:5-302 ~~[or section]~~, 412:6-303 ~~[7]~~, or
9 412:9-404;
- 10 ~~[(13)]~~ (10) A nonrefundable fee of \$2,000 for an application
11 to exceed certain permitted investment limits pursuant
12 to sections 412:5-305(f) and (h), 412:6-306(f) and
13 (h), 412:7-306(f) and (h), 412:8-301(f), 412:9-409(f)
14 and (i), and 412:10-502(g); and
- 15 ~~[(14)]~~ (11) A nonrefundable fee of \$2,500 for an application
16 ~~[for a charter]~~ to engage in the business of a credit
17 union.
- 18 (d) ~~[Beginning January 1, 2014, the]~~ The annual fee for
19 each intra-Pacific financial institution and interstate branch
20 of out-of-state banks is the sum of \$1,000 for each office,
21 agency, and branch office maintained by the financial



1 institution, payment of which shall be made before December 31
2 of each year. The commissioner may establish, increase,
3 decrease, or repeal this fee pursuant to rules adopted in
4 accordance with chapter 91.

5 (e) Intra-Pacific bank fees shall be as follows:

6 (1) A nonrefundable fee of \$9,000 to establish an initial
7 branch pursuant to section 412:5-401;

8 ~~[(1)]~~ (2) A nonrefundable fee of \$750 ~~[for an application~~
9 ~~for a]~~ to establish an additional branch ~~[, subsidiary,~~
10 ~~or subsidiary of a holding company]~~ or agency of an
11 intra-Pacific bank ~~[pursuant to section 412:5-402];~~
12 and

13 ~~[(2)]~~ (3) A nonrefundable fee of \$500 for an application to
14 relocate a branch ~~[, subsidiary, or subsidiary of a~~
15 ~~holding company]~~ or agency of an intra-Pacific bank
16 established or acquired pursuant to section 412:5-401.

17 (f) A nonrefundable fee of \$500 shall be assessed for an
18 application to relocate a branch or office established pursuant
19 to section 412:12-107."

20 SECTION 3. Section 412:2-109, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§412:2-109 Compliance resolution fund; financial
2 institution examiners. (a) Any law to the contrary
3 notwithstanding, fees and fines collected by the commissioner of
4 financial institutions shall be deposited into the compliance
5 resolution fund established pursuant to section 26-9(o).

6 (b) The commissioner may appoint financial institution
7 examiners, in accordance with chapter 76, who shall examine the
8 affairs, transactions, accounts, records, documents, and assets
9 of financial institutions. The commissioner also may appoint
10 administrative support personnel, in accordance with chapter 76,
11 who shall assist and support the examiners. The commissioner
12 may pay the salaries of the financial institution examiners and
13 administrative support personnel from the compliance resolution
14 fund.

15 (c) The compliance resolution fund also may be used to
16 reimburse financial institution examiners and administrative
17 support personnel for the following expenses necessarily
18 incurred on account of an examination and the education and
19 training of financial institution examiners and administrative
20 support personnel:



1 (1) Actual travel expenses in amounts customary for these
2 expenses and approved by the commissioner;

3 (2) A reasonable living expense allowance at a rate
4 customary for these expenses and approved by the
5 commissioner; and

6 (3) Any fee or tuition necessary to attend educational and
7 training conferences, workshops, seminars, and any
8 similar events of this nature.

9 (d) The compliance resolution fund also may be used for
10 other expenses relating to examinations of financial
11 institutions and administrative costs, including personnel costs
12 of the division and costs incurred by supporting offices and
13 divisions.

14 (e) All persons receiving any reimbursement or
15 compensation from the compliance resolution fund shall submit to
16 the commissioner for approval a detailed account of all expenses
17 and compensation necessarily incurred. Persons shall not
18 receive or accept any additional compensation on account of an
19 examination. In the case of an examination, any reimbursement
20 or compensation made by the fund and approved by the
21 commissioner shall be charged to the financial institution being



1 examined by the commissioner and all receipts shall be credited
2 to the fund.

3 (f) Moneys in the compliance resolution fund shall not
4 revert to the general fund.

5 ~~[(g) The commissioner may annually charge each financial
6 institution subject to examination by the commissioner the sum
7 of \$500 plus \$100 for each office, agency, and branch office
8 maintained by the financial institution, payment of which shall
9 be made before July 2 and thereafter credited to the compliance
10 resolution fund. The commissioner may establish, increase,
11 decrease, or repeal this fee when necessary pursuant to rules
12 adopted in accordance with chapter 91.] "~~

13 SECTION 4. Section 412:3-201, Hawaii Revised Statutes, is
14 amended by amending subsection (c) to read as follows:

15 "(c) The application shall be submitted in a form
16 prescribed by the commissioner. The commissioner may accept
17 application forms that are utilized by any federal regulatory
18 agency in processing similar applications. The application
19 shall be accompanied by an application fee ~~[of \$9,000, or such
20 greater amount as the commissioner shall establish by rule~~



1 ~~pursuant to chapter 91.] assessed pursuant to section~~
2 412:2-105.2. The application fee shall not be refundable."

3 SECTION 5. Section 412:3-212, Hawaii Revised Statutes, is
4 amended by amending subsection (c) to read as follows:

5 "(c) If the commissioner is satisfied that the financial
6 institution and, if applicable, its holding company have
7 fulfilled all the requirements of law and the grounds for
8 preliminary approval, and that the financial institution is
9 qualified to engage in the business of a financial institution,
10 the commissioner shall issue a written decision and order
11 approving the application. The order may restrict the payment
12 of dividends for a period of up to three years, and may contain
13 any other conditions and restrictions on the financial
14 institution that are in the public interest, including but not
15 limited to the divestment of any contractual arrangement with an
16 affiliate or subsidiary involving any type of business not
17 permitted under this chapter. Upon the satisfactory fulfillment
18 by the financial institution and, if applicable, its holding
19 company of the conditions in the written decision and order
20 approving the application [~~and upon the payment by a depository~~
21 ~~financial services loan company of the initial license fee~~



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1 ~~assessed pursuant to section 412:2-105.2]~~, the commissioner
2 shall issue to the financial institution a charter or license to
3 engage in the business of a financial institution under this
4 chapter."

5 SECTION 6. Section 412:3-503, Hawaii Revised Statutes, is
6 amended by amending subsection (b) to read as follows:

7 "(b) The institution shall file an application with the
8 commissioner. The application shall be in a form prescribed by
9 the commissioner and shall be accompanied by a fee [~~the amount~~
10 ~~of which shall be established by rule.~~] if required by section
11 412:2-105.2. The application shall contain the following
12 information:

- 13 (1) The name of the financial institution;
- 14 (2) The specific location of the proposed site of the
15 principal office, branch or agency;
- 16 (3) The anticipated opening date and, if open for a
17 specified period, the end of such period;
- 18 (4) The nature of the business or transactions intended to
19 be carried on at the location;
- 20 (5) Facts showing the necessity or justification for the
21 proposed site and that there is a reasonable assurance



1 of sufficient volume of business so that opening and
2 maintaining the proposed business location will not
3 jeopardize the solvency of the financial institution;
4 and

5 (6) Any other information that the commissioner may
6 require."

7 SECTION 7. Section 412:5-201, Hawaii Revised Statutes, is
8 amended by amending subsection (b) to read as follows:

9 "(b) Any bank desiring to acquire any federal power, shall
10 file an application with the commissioner. The application
11 shall indicate the applicable federal statute, rule, regulation,
12 interpretation or court decision, the extent of the federal
13 power desired, the reasons for the application, and any other
14 information requested by the commissioner. The commissioner may
15 by rule prescribe the form of application [~~and application~~
16 ~~filing fees~~]."

17 SECTION 8. Section 412:5-401, Hawaii Revised Statutes, is
18 amended to read as follows:

19 "**§412:5-401 Required approval.** No intra-Pacific bank or
20 intra-Pacific bank holding company may engage in business in
21 this State, except in one of the following three forms:



- 1 (1) Branch. An intra-Pacific bank may establish or
2 acquire one or more branches in this State if it
3 obtains the prior approval of the commissioner under
4 this chapter to operate such branch or branches;
- 5 (2) Subsidiary of an intra-Pacific bank. An intra-Pacific
6 bank may establish or acquire, directly or indirectly,
7 the assets of or control over or merge with a bank
8 that is a Hawaii financial institution or its holding
9 company if the intra-Pacific bank obtains the prior
10 approval of the commissioner and:
- 11 (A) Complies with the requirements of this chapter as
12 to mergers and acquisitions; and
- 13 (B) Obtains a charter under this chapter to engage in
14 business as a bank;
- 15 (3) Subsidiary of an intra-Pacific bank holding company.
16 An intra-Pacific bank holding company may establish or
17 acquire, directly or indirectly, the assets of or
18 control over or merge with a bank that is a
19 [+]Hawaii[+] financial institution or acquire control
20 over or merge with, its holding company if the intra-



1 Pacific bank holding company obtains the prior
2 approval of the commissioner and:

3 (A) Complies with the requirements of this chapter as
4 to mergers and acquisitions; ~~and~~ or

5 (B) Obtains a charter under this chapter to engage in
6 business as a bank."

7 SECTION 9. Section 412:5A-201, Hawaii Revised Statutes, is
8 amended by amending subsection (b) to read as follows:

9 "(b) The application shall be on a form prescribed by the
10 commissioner and shall contain any information that the
11 commissioner may require. ~~[The application shall be accompanied
12 by an application fee established by the commissioner pursuant
13 to chapter 91.] "~~

14 SECTION 10. Section 412:6-204, Hawaii Revised Statutes, is
15 amended by amending subsection (d) to read as follows:

16 "(d) The savings bank shall file an application with the
17 commissioner in a form approved by the commissioner. ~~[The
18 application shall be accompanied by a fee, the amount of which
19 shall be prescribed by rule.]~~ The application shall contain the
20 following information concerning the proposed operating
21 subsidiary:



- 1 (1) The name and date for commencement of operations;
- 2 (2) The specific location;
- 3 (3) The activities and nature of business;
- 4 (4) The ownership, amount, and nature of the investment;
- 5 and
- 6 (5) Any other information that the commissioner may
- 7 require."

8 SECTION 11. Section 412:7-201, Hawaii Revised Statutes, is
9 amended by amending subsection (b) to read as follows:

10 "(b) Any savings and loan association desiring to acquire
11 any federal power shall file an application with the
12 commissioner. The application shall indicate the applicable
13 federal statute, rule, regulation, interpretation or court
14 decision, the extent of the federal power desired, the reasons
15 for the application, and any other information requested by the
16 commissioner. The commissioner may by rule prescribe the form
17 of application [~~and application filing fees~~]."

18 SECTION 12. Section 412:7-204, Hawaii Revised Statutes, is
19 amended by amending subsection (d) to read as follows:

20 "(d) The savings and loan association shall file an
21 application with the commissioner in a form approved by the



1 commissioner. [~~The application shall be accompanied by a fee,~~
2 ~~the amount of which shall be prescribed by rule.] The
3 application shall contain the following information concerning
4 the proposed operating subsidiary:~~

- 5 (1) The name and date for commencement of operations;
- 6 (2) The specific location;
- 7 (3) The activities and nature of business;
- 8 (4) The ownership, amount, and nature of the investment;
- 9 and
- 10 (5) Any other information that the commissioner may
11 require."

12 SECTION 13. Section 412:10-103, Hawaii Revised Statutes,
13 is amended by amending subsection (c) to read as follows:

14 "(c) The application shall be submitted on a form
15 prescribed by the commissioner. The application shall be
16 accompanied by a fee [~~as the commissioner shall establish by~~
17 ~~rule,]~~ established by section 412:2-105.2, no part of which
18 shall be refundable."

19 SECTION 14. Section 412:10-201, Hawaii Revised Statutes,
20 is amended by amending subsection (b) to read as follows:



1 "(b) Any credit union desiring to acquire any federal
2 power[~~r~~] shall file an application with the commissioner. The
3 application shall indicate the applicable federal statute, rule,
4 regulation, interpretation or court decision, the extent of the
5 federal power desired, the reasons for the application, and any
6 other information requested by the commissioner. The
7 commissioner may by rule prescribe the form of application [~~and~~
8 ~~application filing fees~~]."

9 SECTION 15. Section 412:13-222, Hawaii Revised Statutes,
10 is amended by amending subsection (b) to read as follows:

11 "(b) The foreign bank shall file an application with the
12 commissioner. The application shall be in a form and contain
13 any information as the commissioner shall require [~~and shall be~~
14 ~~accompanied by a fee, the amount of which shall be established~~
15 ~~by rule~~]."

16 SECTION 16. Section 412:10-125, Hawaii Revised Statutes,
17 is repealed.

18 [~~"§412:10-125 Credit union advisory board. (a) There~~
19 ~~shall be a credit union advisory board consisting of five~~
20 ~~members appointed pursuant to section 26-34 by the governor who~~
21 ~~shall also designate the chairperson of the board. There shall~~



1 ~~be at least one member from each of the counties who shall serve~~
2 ~~for four years. The terms of the members shall be staggered and~~
3 ~~shall expire as follows: one on December 31 after the year that~~
4 ~~this chapter becomes law and one at the end of each succeeding~~
5 ~~calendar year thereafter. The governor shall appoint persons of~~
6 ~~tested credit union experience and who are members of credit~~
7 ~~unions operating under this chapter. However, until such time~~
8 ~~that there are credit unions operating under this chapter, the~~
9 ~~governor may make appointments to the board of persons with~~
10 ~~tested credit union experience from any credit union operating~~
11 ~~in this State.~~

12 ~~(b) The powers and duties of the board shall include, but~~
13 ~~not be limited to:~~

14 ~~(1) Advising the commissioner and others in improving the~~
15 ~~operations and supervision of credit unions;~~

16 ~~(2) Making necessary recommendations as to procedural~~
17 ~~rules pursuant to chapter 91;~~

18 ~~(3) Proposing laws and rules to safeguard the interest of~~
19 ~~depositors and members;~~

20 ~~(4) Promoting the extension of credit at the lowest~~
21 ~~possible rates and cooperating with every group of~~



1 ~~people who may be or may become interested in the~~
2 ~~formation and development of a credit union under this~~
3 ~~article;~~

4 ~~(5) Keeping detailed minutes of each board meeting; and~~

5 ~~(6) Other duties designated by the commissioner or as~~
6 ~~provided by this article.~~

7 ~~(c) Board meetings shall be held at such times and places~~
8 ~~as shall be determined by the chairperson and the commissioner.~~
9 ~~Meetings may be called as needed, either by the chairperson, the~~
10 ~~commissioner, or a majority of the board members.~~

11 ~~(d) Three members of the board shall constitute a quorum~~
12 ~~at any meeting and a majority vote of those present shall~~
13 ~~prevail. No member of the board shall be qualified to act in~~
14 ~~any matter involving a credit union of which the advisory board~~
15 ~~member is an officer, director, committee person, member,~~
16 ~~employee, or to which the board member is indebted. The members~~
17 ~~of the board shall serve without compensation but shall be~~
18 ~~reimbursed through the office of the commissioner for expenses~~
19 ~~incurred in the performance of their duties."]~~

20 SECTION 17. Statutory material to be repealed is bracketed
21 and stricken. New statutory material is underscored.



1 SECTION 18. This Act shall take effect upon its approval.

2

INTRODUCED BY:

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S.B. NO. 2680

Report Title:

Financial Institutions; DCCA Division of Financial Institutions; Organization and Management; Banks; Savings Banks; Savings and Loan Associations; Credit Unions; Fees

Description:

Clarifies chapter 412, Hawaii Revised Statutes, relating to fees for financial institutions.

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